

HOUSE BILL No. 4647

May 6, 1999, Introduced by Reps. Daniels, Martinez, Stallworth, Clark, Hardman, Brater, Cherry, Rison, Baird, Vaughn, Lemmons, Jacobs and Thomas and referred to the Committee on Constitutional Law and Ethics.

A bill to amend 1927 PA 372, entitled

"An act to regulate and license the selling, purchasing, possessing, and carrying of certain firearms and gas ejecting devices; to prohibit the buying, selling, or carrying of certain firearms and gas ejecting devices without a license; to provide for the forfeiture of firearms possessed in violation of this act; to provide immunity from civil liability under certain circumstances; to prescribe the powers and duties of certain state and local agencies; and to repeal all acts and parts of acts inconsistent with the provisions of this act,"

by amending sections 2 and 6 (MCL 28.422 and 28.426), as amended by 1994 PA 338.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 2. (1) Except as provided in subsection (2), a person
2 shall not purchase, carry, or transport a pistol in this state
3 without first having obtained a license for the pistol as pre-
4 scribed in this section.

5 (2) A person who brings a pistol into this state who is on
6 leave from active duty with the armed forces of the United States

1 or who has been discharged from active duty with the armed forces
2 of the United States shall obtain a license for the pistol within
3 30 days after his or her arrival in this state.

4 (3) The commissioner or chief of police of a city, township,
5 or village police department that issues licenses to purchase,
6 carry, or transport pistols, or his or her duly authorized
7 deputy, or the sheriff or his or her duly authorized deputy, in
8 the parts of a county not included within a city, township, or
9 village having an organized police department, in discharging the
10 duty to issue licenses shall with due speed and diligence issue
11 licenses to purchase, carry, or transport pistols to qualified
12 applicants residing within the city, village, township, or
13 county, as applicable unless he or she has probable cause to
14 believe that the applicant would be a threat to himself or her-
15 self or to other individuals, or would commit an offense with the
16 pistol that would violate a law of this or another state or of
17 the United States. An applicant is qualified if all of the fol-
18 lowing circumstances exist:

19 (a) The person is not subject to an order or disposition for
20 which he or she has received notice and an opportunity for a
21 hearing, and which was entered into the law enforcement informa-
22 tion network ~~pursuant to~~ UNDER any of the following:

23 (i) Section ~~464a(1)~~ 464A of the mental health code, ~~Act~~
24 ~~No. 258 of the Public Acts of 1974, being section 330.1464a of~~
25 ~~the Michigan Compiled Laws~~ 1974 PA 258, MCL 330.1464A.

26 (ii) Section ~~444a(1)~~ 444A of the revised probate code,
27 ~~Act No. 642 of the Public Acts of 1978, being section 700.444a~~

1 ~~of the Michigan Compiled Laws~~ 1978 PA 642, MCL 700.444A, OR
2 SECTION 5107 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998
3 PA 386, MCL 700.5107.

4 (iii) Section ~~2950(9)~~ 2950 of the revised judicature act
5 of 1961, ~~Act No. 236 of the Public Acts of 1961, being section~~
6 ~~600.2950 of the Michigan Compiled Laws~~ 1961 PA 236, MCL
7 600.2950.

8 (iv) Section ~~2950a(7)~~ 2950A of ~~Act No. 236 of the Public~~
9 ~~Acts of 1961, being section 600.2950a of the Michigan Compiled~~
10 ~~Laws~~ THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL
11 600.2950A.

12 (v) Section ~~14(7)~~ 14 of ~~chapter 84 of the Revised~~
13 ~~Statutes of 1846, being section 552.14 of the Michigan Compiled~~
14 ~~Laws~~ 1846 RS 84, MCL 552.14.

15 (vi) Section ~~6b(5)~~ 6B of chapter V of the code of criminal
16 procedure, ~~Act No. 175 of the Public Acts of 1927, being section~~
17 ~~765.6b of the Michigan Compiled Laws~~ 1927 PA 175, MCL 765.6B, if
18 the order has a condition imposed ~~pursuant to section 6b(3) of~~
19 ~~chapter V of Act No. 175 of the Public Acts of 1927~~ UNDER SUB-
20 SECTION (3) OF THAT SECTION.

21 (vii) Section ~~16b(1)~~ 16B of chapter IX of ~~Act No. 175 of~~
22 ~~the Public Acts of 1927, being section 769.16b of the Michigan~~
23 ~~Compiled Laws~~ THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL
24 769.16B.

25 (b) The person is ~~18~~ 21 years of age or older. ~~or, if the~~
26 ~~seller is licensed pursuant to section 923 of title 18 of the~~
27 ~~United States Code, 18 U.S.C. 923, is 21 years of age or older.~~

1 (c) The person is a citizen of the United States and is a
2 legal resident of this state.

3 (d) A felony charge against the person is not pending at the
4 time of application.

5 (e) The person is not prohibited from possessing, using,
6 transporting, selling, purchasing, carrying, shipping, receiving,
7 or distributing a firearm under section 224f of the Michigan
8 penal code, ~~Act No. 328 of the Public Acts of 1931, being sec-~~
9 ~~tion 750.224f of the Michigan Compiled Laws~~ 1931 PA 328, MCL
10 750.224F.

11 (f) The person has not been adjudged insane in this state or
12 elsewhere unless he or she has been adjudged restored to sanity
13 by court order.

14 (g) The person is not under an order of involuntary commit-
15 ment in an inpatient or outpatient setting due to mental
16 illness.

17 (h) The person has not been adjudged legally incapacitated
18 in this state or elsewhere. This subdivision does not apply to a
19 person who has had his or her legal capacity restored by order of
20 the court.

21 (i) The person correctly answers 70% or more of the ques-
22 tions on a basic pistol safety review questionnaire approved by
23 the basic pistol safety review board and provided to the individ-
24 ual free of charge by the licensing authority. If the person
25 fails to correctly answer 70% or more of the questions on the
26 basic pistol safety review questionnaire, the licensing authority
27 shall inform the person of the questions he or she answered

1 incorrectly and allow the person to attempt to complete another
2 basic pistol safety review questionnaire. The person shall not
3 be allowed to attempt to complete more than 2 basic pistol safety
4 review questionnaires on any single day. The licensing authority
5 shall allow the person to attempt to complete the questionnaire
6 during normal business hours on the day the person applies for
7 his or her license.

8 (4) Applications for licenses under this section shall be
9 signed by the applicant under oath upon forms provided by the
10 director of the department of state police. Licenses to pur-
11 chase, carry, or transport pistols shall be executed in tripli-
12 cate upon forms provided by the director of the department of
13 state police and shall be signed by the licensing authority.
14 Three copies of the license shall be delivered to the applicant
15 by the licensing authority.

16 (5) Upon the sale of the pistol, the seller shall fill out
17 the license forms describing the pistol sold, together with the
18 date of sale, and sign his or her name in ink indicating that the
19 pistol was sold to the licensee. The licensee shall also sign
20 his or her name in ink indicating the purchase of the pistol from
21 the seller. The seller may retain a copy of the license as a
22 record of the sale of the pistol. The licensee shall return
23 2 copies of the license to the licensing authority within 10 days
24 following the purchase of the pistol.

25 (6) One copy of the license shall be retained by the licens-
26 ing authority as an official record for ~~a period of~~ 6 years.
27 The other copy of the license shall be forwarded by the licensing

1 authority within 48 hours to the director of the department of
2 state police. A license is void unless used within 10 days after
3 the date of its issue.

4 (7) This section does not apply to the purchase of pistols
5 from wholesalers by dealers regularly engaged in the business of
6 selling pistols at retail, or to the sale, barter, or exchange of
7 pistols kept solely as relics, curios, or antiques not made for
8 modern ammunition or permanently deactivated. This section does
9 not prevent the transfer of ownership of pistols that are inher-
10 ited if the license to purchase is approved by the commissioner
11 or chief of police, sheriff, or their authorized deputies, and
12 signed by the personal representative of the estate or by the
13 next of kin having authority to dispose of the pistol.

14 (8) The licensing authority shall provide a basic pistol
15 safety brochure to each applicant for a license under this sec-
16 tion before the applicant answers the basic pistol safety review
17 questionnaire. A basic pistol safety brochure shall contain, but
18 is not limited to providing, information on all of the following
19 subjects:

20 (a) Rules for safe handling and use of pistols.

21 (b) Safe storage of pistols.

22 (c) Nomenclature and description of various types of
23 pistols.

24 (d) The responsibilities of owning a pistol.

25 (9) The basic pistol safety brochure shall be supplied in
26 addition to the safety pamphlet required by section 9b.

1 (10) The basic pistol safety brochure required in subsection
2 (8) shall be produced by a national nonprofit membership
3 organization that provides voluntary pistol safety programs that
4 include training individuals in the safe handling and use of
5 pistols.

6 (11) A person who forges any matter on an application for a
7 license under this section is guilty of a felony, punishable by
8 imprisonment for not more than 4 years or a fine of not more than
9 \$2,000.00, or both.

10 (12) A licensing authority shall implement this section
11 during all of the licensing authority's normal business hours and
12 shall set hours for implementation that allow an applicant to use
13 the license within the time period set forth in subsection (6).

14 Sec. 6. (1) The prosecuting attorney, the sheriff, and the
15 director of the department of state police, or their respective
16 authorized deputies, shall constitute boards exclusively autho-
17 rized to issue a license to an applicant residing within their
18 respective counties, to carry a pistol concealed on the person
19 and to carry a pistol, whether concealed or otherwise, in a vehi-
20 cle operated or occupied by the applicant. The county clerk of
21 each county shall be clerk of the licensing board, which ~~board~~
22 shall be known as the concealed weapon licensing board. A
23 license to carry a pistol concealed on the person or to carry a
24 pistol, whether concealed or otherwise, in a vehicle operated or
25 occupied by the person applying for the license, shall not be
26 ~~granted~~ ISSUED to a person unless the person is ~~18~~ 21 years
27 of age or older, is a citizen of the United States, and has

1 resided in this state 6 months or more. A license shall not be
2 issued unless ~~it appears that~~ THE BOARD DETERMINES the appli-
3 cant has good reason to fear injury to his or her person or prop-
4 erty, or has other proper reasons, and is a suitable person to be
5 licensed. A license shall not be issued under this section
6 unless all of the following circumstances exist:

7 (a) The person is not the subject of an order or disposition
8 entered into the law enforcement information network ~~pursuant~~
9 ~~to~~ UNDER any of the following:

10 (i) Section ~~464a(1)~~ 464A of the mental health code, ~~Act~~
11 ~~No. 258 of the Public Acts of 1974, being section 330.1464a of~~
12 ~~the Michigan Compiled Laws~~ 1974 PA 258, MCL 330.1464A.

13 (ii) Section ~~444a(1)~~ 444A of the revised probate code,
14 ~~Act No. 642 of the Public Acts of 1978, being section 700.444a~~
15 ~~of the Michigan Compiled Laws~~ 1978 PA 642, MCL 700.444A, OR SEC-
16 TION 5107 OF THE ESTATES AND PROTECTED INDIVIDUALS CODE, 1998 PA
17 386, MCL 700.5107.

18 (iii) Section ~~2950(9)~~ 2950 of the revised judicature act
19 of 1961, ~~Act No. 236 of the Public Acts of 1961, being section~~
20 ~~600.2950 of the Michigan Compiled Laws~~ 1961 PA 236, MCL
21 600.2950.

22 (iv) Section ~~2950a(7)~~ 2950A of ~~Act No. 236 of the Public~~
23 ~~Acts of 1961, being section 600.2950a of the Michigan Compiled~~
24 ~~Laws~~ THE REVISED JUDICATURE ACT OF 1961, 1961 PA 236, MCL
25 600.2950A.

1 (v) Section ~~14(7)~~ 14 of ~~chapter 84 of the Revised~~
2 ~~Statutes of 1846, being section 552.14 of the Michigan Compiled~~
3 ~~Laws~~ 1846 RS 84, MCL 552.14.

4 (vi) Section ~~6b(5)~~ 6B of chapter V of the code of criminal
5 procedure, ~~Act No. 175 of the Public Acts of 1927, being section~~
6 ~~765.6b of the Michigan Compiled Laws~~ 1927 PA 175, MCL 765.6B, if
7 the order has a condition imposed ~~pursuant to section 6b(3) of~~
8 ~~chapter V of Act No. 175 of the Public Acts of 1927~~ UNDER SUB-
9 SECTION (3) OF THAT SECTION.

10 (vii) Section ~~16b(1)~~ 16B of chapter IX of ~~Act No. 175 of~~
11 ~~the Public Acts of 1927, being section 769.16b of the Michigan~~
12 ~~Compiled Laws~~ THE CODE OF CRIMINAL PROCEDURE, 1927 PA 175, MCL
13 769.16B.

14 (b) The person has not been convicted of a felony or con-
15 fined for a felony conviction in this state or elsewhere during
16 the 8-year period immediately preceding the date of the applica-
17 tion, and a felony charge against the person is not pending at
18 the time he or she applies for a license described in this
19 section.

20 (c) The person has not been adjudged insane unless the
21 person has been adjudged restored to sanity by court order.

22 (d) The person is not under an order of involuntary commit-
23 ment in an inpatient or outpatient setting due to mental
24 illness.

25 (e) The person has not been adjudged legally incapacitated
26 in this state or elsewhere. This subdivision does not apply to a

1 person who has had his or her legal capacity restored by court
2 order.

3 (2) If an applicant resides in a city, village, or township
4 having an organized department of police, a license shall not be
5 issued unless the application is first approved in writing by the
6 supervisor, commissioner or chief of police, or marshal of that
7 city, village, or township. If an application is not approved in
8 the manner prescribed by this subsection, the applicant has 10
9 days to appeal, in writing, to the concealed weapon licensing
10 board in the county in which the applicant resides. Upon receipt
11 of a written appeal, that concealed weapon licensing board shall
12 schedule a hearing to be held at its next scheduled meeting,
13 which shall not be less than 15 days after ~~the receipt of~~
14 RECEIVING the fingerprint comparison report. The concealed
15 weapon licensing board shall determine at the hearing whether the
16 applicant is qualified to carry a concealed weapon ~~pursuant to~~
17 UNDER this section. Notice of the hearing shall be mailed to the
18 applicant and the organized POLICE department ~~of police~~ not
19 less than 10 days before the scheduled hearing. The applicant
20 shall deposit ~~the sum of~~ \$10.00 with the county clerk at the
21 time the appeal is made. If, after appeal, a license is not
22 issued, the deposit shall be credited to the general fund of the
23 county. If a license is issued, the deposit shall be processed
24 as the license fee required under subsection (6).

25 (3) If an applicant does not reside in a city, village, or
26 township that has an organized department of police, a license
27 shall not be issued unless the application is first submitted for

1 approval or objection to the supervisor of the township in which
2 the applicant resides. The supervisor shall indicate in writing
3 on the application whether he or she objects to the license being
4 issued. If action is not taken by a supervisor within 14 days
5 after the application is submitted to the supervisor, the con-
6 cealed weapon licensing board shall consider the application as
7 if a statement of no objection had been included. If the super-
8 visor objects to the application in writing, the applicant may
9 appeal the objection to the concealed weapon licensing board of
10 the county in which the applicant resides within 10 days after
11 the objection. Upon ~~receipt of~~ RECEIVING a written appeal,
12 that concealed weapon licensing board shall schedule a hearing to
13 be held at its next scheduled meeting, which shall not be less
14 than 15 days after ~~the receipt of~~ RECEIVING the fingerprint
15 comparison report. The concealed weapon licensing board shall
16 determine at the hearing whether the applicant is qualified to
17 carry a concealed weapon ~~pursuant to~~ UNDER this section.
18 Notice of the hearing shall be mailed to the applicant and the
19 supervisor of the township not less than 10 days before the
20 scheduled hearing. The applicant shall deposit ~~the sum of~~
21 \$10.00 with the county clerk at the time the appeal is made. If,
22 after appeal, a license is not issued, the deposit shall be cred-
23 ited to the general fund of the county. If a license is issued,
24 the deposit shall be processed as the license fee required under
25 subsection (6).

26 (4) An applicant shall have 2 sets of fingerprints taken by
27 the sheriff, or the sheriff's authorized representative, of the

1 county in which the applicant resides, if the applicant does not
2 reside in a city, village, or township having an organized
3 department of police, or by the commissioner or chief of police,
4 or marshal, or an authorized representative of the commissioner
5 or chief of police or marshal, if the applicant resides within a
6 city, village, or township having an organized POLICE department.
7 ~~of police.~~ The first set of fingerprints shall be taken on
8 forms furnished by the department of state police, and the second
9 set on forms furnished by the federal bureau of investigation.
10 The person taking the prints shall forward the first set of fin-
11 gerprints to the department of state police and the second set to
12 the federal bureau of investigation or other agency designated by
13 the federal bureau of investigation. The director of the bureau
14 of identification of the department of state police shall compare
15 the fingerprints with those already on file in the bureau. A
16 license shall not be issued unless the report is received by the
17 clerk of the board from the department of state police and the
18 federal bureau of investigation that the comparisons do not show
19 that the applicant was convicted of or confined for a felony
20 during the 8-year period. The board may grant a temporary permit
21 in case of emergency pending the results of the comparisons. The
22 temporary permit shall be issued for a period of not more than 30
23 days and shall expire automatically at the end of the period for
24 which it was issued. Upon ~~receipt of~~ RECEIVING the comparison
25 report from the federal bureau of investigation, the bureau of
26 identification of the department of state police shall forward a
27 report of both comparisons to the officer taking the prints and

1 also to the county clerk of the county in which the applicant
2 resides, who as clerk of the board shall keep a record of the
3 report and shall report to the board. The fingerprints received
4 under this section shall be filed in the bureau of identification
5 of the department of state police in the noncriminal section of
6 the files.

7 (5) The application for a license shall state each reason
8 for the necessity or desirability of carrying a pistol concealed
9 on the person or carrying a pistol, whether or not concealed, in
10 a vehicle occupied by the person applying for the license. A
11 license issued under this section shall limit the carrying of a
12 pistol to the reason or reasons satisfactory to the board, and
13 each restriction shall appear conspicuously on the face of the
14 license. The license shall be an authorization to carry a pistol
15 in compliance with this section only to the extent contained in
16 the face of the license and the license shall be revoked by the
17 board if the pistol is carried contrary to the authorization.

18 (6) The prosecuting attorney shall be the chairperson of the
19 board. ~~which~~ THE BOARD shall convene at least once in each
20 calendar month and at other times as the board is called to con-
21 vene by the chairperson. Each license shall be issued only upon
22 written application signed by the applicant under oath and upon a
23 form provided by the director of the department of state police.
24 Each license shall be issued only with the approval of a majority
25 of the members of the board and shall be executed in triplicate
26 upon forms provided by the director of the department of state
27 police. Each license shall be signed in the name of the

1 concealed weapon licensing board by the county clerk with the
2 seal of the circuit court affixed to the license. The county
3 clerk shall first collect a licensing fee of \$10.00 from the
4 applicant for each license delivered to the applicant. One copy
5 of the license shall be delivered to the applicant, the duplicate
6 shall be retained by the county clerk as ~~a permanent~~ AN offi-
7 cial record for ~~a period of~~ 6 years, and the triplicate of the
8 license shall be forwarded within 48 hours to the director of the
9 department of state police who shall file and index each license
10 received and retain it as ~~a permanent~~ AN official record for ~~a~~
11 ~~period of~~ 6 years. A license is valid for a definite period of
12 not more than 3 years, and that period shall be stated in the
13 license. A renewal of the license shall not be granted except
14 upon the filing of a new application. A license shall bear the
15 imprint of the right thumb of the licensee, or, if a right thumb
16 imprint is impossible to obtain, the license shall bear the
17 imprint of the left thumb or some other finger of the licensee.
18 The licensee shall carry the license upon his or her person when
19 carrying a pistol concealed upon his or her person, or when car-
20 rying the pistol, whether or not concealed, in a vehicle occupied
21 by the licensee. The licensee shall display the license upon the
22 request of a peace officer. On the first day of each month the
23 county clerk shall remit to the state treasurer \$2.00 for each
24 license issued during the preceding month. On the first day of
25 each month the county clerk shall pay into the general fund of
26 the county the remainder of each license fee for each license
27 issued during the preceding month.

1 (7) The county clerk may issue a copy of a license issued
2 ~~pursuant to~~ UNDER this section for a fee of \$3.00. ~~which~~ THE
3 fee shall be paid into the general fund of the county.

4 (8) A charter county may impose by ordinance a different
5 amount for the concealed weapon licensing fee prescribed by sub-
6 section (6). A charter county shall not impose a fee ~~which~~
7 THAT is greater than the cost of the service for which the fee is
8 charged.